IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.18558 of 2008
RAJ KUMAR MISHRA
Versus
STATE OF BIHAR THRO.VIGI.
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3. 1.7.2008. Heard the counsel for the petitioner and counsel appearing on behalf of the State and the Vigilance Department.

The petitioner is an accused in a case under Sections 7, 13(2) and 13(1) (d) of the Prevention of Corruption Act.

The allegation against the petitioner is that the informant asked him to mutate his land which he had purchased, for which the petitioner had demanded an illegal gratification. The matter was settled and he was arrested for taking bribe of Rs. 4,000/-.

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The petitioner had earlier moved for bail on 23.4.2008. While rejecting the bail application, this Court considered the fact that the petitioner had remained in custody for only three months and further observed that "considering the nature of allegation together with the submissions made, the prayer for bail is rejected for the present.".

The second bail application has been filed on behalf of the petitioner on 9.5.2008 and has been taken up today for the first time for consideration. The petitioner has now completed six months in custody.

Mr. Rakesh Kumar learned counsel appearing on behalf of the Vigilance Department while referring to a case reported in 2001(7) S.C.C. page 673 submits that the petitioner should not be granted bail without there being any change of circumstances and the

Hon'ble Supreme Court has held that granting bail without any change of circumstance amounts to review of the order.

The order of the Hon'ble Supreme Court refers to a case in which an offence was committed under the Narcotics Act. The Hon'ble Supreme Court has held that Section 37 provides that the grant of bail in case of this nature is exception rather than the Rule and has thus observed that the petitioner ought not case to have been granted bail.

In the present case, I find that in the earlier order dated 23.4.2008, it has been observed that the petitioner is not being granted bail for the 'present' which indicates that this Court would consider his bail application again in future.

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In view of the fact that the petitioner has remained in jail for six months, I direct that the petitioner Raj Kumar Mishra is directed to be released on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the Special Judge(Vigilance) P. C. Act, North Bihar, Muzaffarpur in connection with Vigilance(Patna) P. S. Case No. 9/08/Special Case No. 5/08 with the condition that the petitioner should attend the trial of this case as and when required by the court below and if he is absent even on a single date without any proper cause, his bail bond shall stand cancelled.

U.K. **(Sheema Ali Khan,J)**